

14.1 PROSPECTING AND MINING

RELEVANT STATUTES AND ADMINISTRATIVE CODES

Exploration for minerals (prospecting) and commercial production of minerals (mining) on state-owned aquatic lands are governed by the sections of the Revised Code of Washington (RCW):

RCW 79.90.330	Leases and permits for prospecting and contracts for mining valuable minerals and specific materials from aquatic lands
RCW 79.90.340	Option contracts for prospecting and leases for mining and extraction of coal from aquatic lands
RCW 79.01.616	Prospecting and mining - Leases and permits for prospecting and contracts for mining valuable minerals and specific materials - Exception authorized - Lands subject to - Size of tracts
RCW 79.01.617	Prospecting and mining - Public auction of mining contracts
RCW 79.01.618	Prospecting and mining - Mineral leases, contracts, and permits - Rules
RCW 79.01.620	Prospecting and mining - Leases for mineral prospecting - Application - Fees - Rejection
RCW 79.01.624	Prospecting and mining - Compliance with mineral rights reservations - Compensation for loss or damage to surface rights
RCW 79.01.628	Prospecting and mining - Prospecting leases - Term of lease - Rental - Mining contract required for extracting for commercial sale or use - Annual prospecting work - Termination of lease
RCW 79.01.632	Prospecting and mining Conversion of prospecting lease into contract - Preference - Time for application - Plans for development and reclamation - Development work - Termination of contract - Nonconversion, effect
RCW 79.01.633	Prospecting and mining - Lessee's rights and duties relative to owner of surface rights
RCW 79.01.634	Prospecting and mining - Termination of lease or contract for default
RCW 79.01.640	Prospecting and mining - Form, terms, and conditions of prospecting leases and mining contracts - Subcontracts
RCW 79.01.642	Prospecting and mining - Reclamation of premises

The issuance of leases for oil and gas exploration and production is governed by Chapter 79.14 RCW and Chapter 332-14 WAC. Since the issuance of oil and gas lease is by public auction conducted by the Division of Asset Planning and Resource Management in Olympia, and interest in these leases is very low at present, hydrocarbons will not be discussed further. Likewise, no coal exploration or production is active on state-owned aquatic lands, so this activity will not be discussed.

USE AUTHORIZATION TERMS AND CONDITIONS

The key prospecting lease terms are described in the statutes. The rental rates have been set by the Board of Natural Resources in the Washington Administrative Code. The document is a typical mineral lease with a preference right to commercially exploit any mineral deposits discovered as a result of the holder's exploration efforts. To encourage a timely and efficient search for valuable minerals, the prospecting lease requires physical exploration work of at least \$3 per acre per year. The work must be acceptable to the state and the holder can pay cash in lieu of actual work for a maximum of three years out of the seven-year term of the lease. The lease also contains the requirement for a detailed plan of operations to be submitted to and approved by state prior to exploration operations. The lease also contains provisions for a detailed report of activities conducted by the lessee on the lease area.

The provisions of the mining contract are reasonably similar to those of the prospecting lease. The mining contract addresses the problem of speculation by requiring increasing royalty payments over the life of the lease. The mining contract also contains extensive plan of operations and reporting requirements. Mining contracts must be signed by the Department supervisor.

BUSINESS ISSUES

The mineral exploration business has long been divided into the corporate sector and the "small miner." The small miner is the most likely to apply for a mineral prospecting lease on state-owned aquatic lands. These lessees are likely to be pursuing the activity as a sideline or hobby, but are stubborn about defending areas where they can find a few flakes of gold from others. These lessees are poorly capitalized and some have been known to leave sites in poor condition when they've lost interest in the activity.

Few corporations are active in exploration activity on state-owned aquatic lands. Corporations are generally better capitalized than the small miner. Corporations usually have a reputation to maintain and do not want a bad name because they may well want to do business with the agency in the future.

All miners suffer from the problem associated with the federal mining laws. Miners generally believe that government should not obstruct the search for valuable minerals in any way. Small miners in particular resent having to deal with the government, especially when it comes to reporting on their activities and the value of minerals which they have found.

ENVIRONMENTAL ISSUES

The environmental concerns posed by mining and exploration on state-owned aquatic lands are primarily related to the preservation of fisheries habitat and interference with navigation. Most of the uses are small dredging activities on the bars and shorelines of rivers like the Similkameen and the Sultan. The fisheries habitat issues are primarily dealt with through the hydraulics project approval process by the Department of Fish and Wildlife. In some cases a shoreline permit is required as well. Most of the impacts are to gravel bars, especially at the prospecting stage.

Mining contracts for significant resources are a different matter. This problem has been seen most clearly in the applications for mining contracts on the lower Columbia River to remove large volumes of black sand. In most cases, large mining projects would require an environmental impact statement for the shoreline permit. If not, then it would be necessary to consider assuming lead agency status and requiring an environmental impact statement before issuing a mining contract. Large projects to remove significant volumes of minerals under a mining contract may also propose severe problems with navigation on larger rivers like the Columbia. These impacts must be dealt with thoroughly in the environmental impact statement.

POLICY CONCERNS

The major policy concerns with prospecting and mining on state-owned aquatic lands include protection of the aquatic habitat, especially where native fish runs may be involved, production of the hydrologic integrity of the river so that erosion and/or deposition patterns are not altered significantly, operation of the prospecting/mining activity in a manner that allows appropriate monitoring to ensure compliance with the contract and the regulatory permits, reasonable access to the site that does not cause problems to adjacent landowners or with navigation, and a viable reclamation plan to minimize adverse environmental impacts after operations are completed.

While some of these issues are dealt with in the context of regulatory permits like the hydraulic project approval and the shoreline permit from local government, the ultimate responsibility for the protection of the aquatic habitat and the uses of state-owned aquatic land must fall with the Department.